IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5094 OF 2005

Virendra Munneshwar Yadav ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. Vikas Shivarkar for the Applicant.
Ms Rajshree Gadhvi, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 24, 2005.

P.C.:

1. The offence registered against the Applicant is under section 22 of the Narcotic Drugs and Psycotropic Substances Act, 1985 (hereinafter referred to as the said Act of 1985). It is not in dispute that the quantity of opium allegedly recovered from the Applicant is less than commercial quantity and therefore, provisions of section 37 of the said Act of 1985 are not applicable to the case of the Applicant. According to the case of the prosecution, the price of the opium recovered from the Applicant is Rs.11,000/-.

2. Perusal of the order passed by the Special Court rejecting the Application for grant of bail made by the Applicant shows that the Application is rejected only on the ground that the Applicant is not a permanent resident of the State of Maharashtra and therefore, he is likely to run away. Considering the facts of the case, in my view, bail could not have been denied by the Special Court to the Applicant only on the ground that he is not a resident of the State

of Maharashtra. Stringent condition of furnishing local surety could have been imposed for ensuring the attendance of the Applicant.

3. In the facts of the case considering the fact that Section 37 of the said Act of 1985 is not applicable and considering that the Application for bail made by the Applicant was rejected only on the ground set out above, a case is made out for grant of bail subject to stringent conditions.

4. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.II 41 of 2005 of Dombivali Police Station,** subject to furnishing a personal bond of **Rs.20,000/- with two local sureties** in the like amount.

ii) The statement of the Applicant that he will reside at Kalyan during the pendency of the trial is accepted. This order will be implemented only after the Applicant furnishes to the Investigating Officer detailed address of place of his residence at Kalyan where he proposes to stay after he is enlarged on bail.

iii) The Bail is granted subject to condition that the Applicant will report to the Investigating Officer on every Sunday between 11.00 a.m. to 12.00 noon till the conclusion of the trial.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE